

NO PROTEST 4-10-92

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

Employer Identification Number:

Date:

3-10-92

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of

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[REDACTED]
[REDACTED]

attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[REDACTED]
District Director

Enclosures: 3

A

Enclosure I

████████████████████
██████████

You were incorporated on ██████████ to act as an independent, non-profit organization, with the objective and purpose to share, study, promote and educate through workshops and seminars independent contractors on the sale of home cleaning systems. The sixth Article states that membership requirements and fees are contained in the Code of Regulations and Bylaws. However, on page 1 of Form 1024, Part I, #9, you indicated that you do not have Bylaws.

In Part II page 2 of Form 1024, you describe your organization's purpose and activities. You state that ██████████, ██████████ (Club) "was formed to inform, motivate, and promote its members all of whom are in the business of selling and distributing ██████████ and accessories..." In subsequent correspondence, you indicated that a proportional representation by ██████████ distributors is vital to the achievement of the goals of the Club.

Your activities include the publication and distribution of a monthly magazine which informs distributors of sales achievements, new ██████████ products, and other pertinent ██████████ information. Quarterly distributor meetings are held to motivate and inform distributors of new sales techniques, sales achievements, new products, and marketing and recruiting techniques. Prizes and awards are given to the top distributors. In the initial application, you indicated that you maintained a legal fund in order to provide a legal counsel for any distributor needing any such legal assistance. In your most recent letter, you stated that the fund has been disbanded.

The perjury statement appearing at the bottom of page 1 of Form 1024 was signed by the president of your organization. The perjury statement attests to the accuracy and correctness of the information contained in the application.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, boards of trade or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Regulations states that a business league is an association of persons having some common business interest, the purpose of which is to promote such common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

[REDACTED]

Revenue Ruling 56-65, 1956-1 C.B. 199 describes a local organization whose principal activity consists of furnishing particular information and specialized individual service to its individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses in performing particular services for individual persons. Membership is restricted to individuals engaged in the building engineering construction business. The primary activity of this organization is not directed to the improvement of business conditions of the building industry but rather it was created to serve the private interest of its members. Such organization is not entitled to exemption from Federal income tax under section 501(c)(6) of the Code.

Revenue Ruling 58-294, 1958-1 C.B. 244 describes an association which was organized and operated for the purposes of promoting uniform business, advertising and fair trade practices in connection with the manufacture and sale of a certain patented product. Membership is limited to any person, firm, or corporation licensed to manufacture and sell the specified product. The association was denied exemption because it was engaged in furthering the business interests of the dealers in the particular patented product rather than the improvement of business conditions of one or more lines of business.

Revenue Ruling 67-77, 1967-1 C.B. 138 describes an organization composed of dealers in a certain make of automobile in a designated area which did not qualify for exemption because it performed particular services for its members. The organization is organized and operated for the primary purpose of financing general advertising campaigns to promote the sale of the certain make of automobile.

Revenue Ruling 68-182, 1968-1 C.B. 263 describes the Internal Revenue Service's (Service) position with regards to organizations whose purposes and activities are directed to the more efficient production and sale of a particular product. Although the United States Court of Appeals, Seventh Circuit, granted exemption to the Pepsi-Cola Bottlers' Association, Inc., the Service holds the position that the organization promotes a single brand or product within a line of business and is not entitled to exemption.

Revenue Ruling 83-164, 1983-2 C.B. 95 describes an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer. It does not qualify for exemption. The organization was formed to develop and disseminate information pertaining to the electronic data processing equipment manufactured by a certain corporation. Exemption was denied because the organization's activities served to promote the common business interests of users of the particular brand of computers.

[REDACTED]

In National Muffler Dealers Association, Inc. v. United States, 440 U.S. 472, Ct. D. 1997, 1979-1 C.B. 198, the United States Supreme Court held that an organization of muffler dealers franchised by Midas International Corporation does not qualify for exemption from federal income tax. The Association did not qualify because its purpose was too narrow. The Court concluded that exemption under section 501(c)(6) is not available to aid one group in competition with another within an industry.

Based on the facts presented in the above revenue rulings and court cases, we have determined that you are not entitled to exemption under section 501(c)(6) of the Code. In your letter dated [REDACTED], you indicated that your membership is not limited to [REDACTED] distributors. However, you further state in that letter that it is vital to your organization that you have a proportional representation by [REDACTED] distributors. The magazine you distribute updates members of [REDACTED] distributors' sales achievements resulting from the sale of [REDACTED] products. The information provided indicates that your activities are geared toward enhancing the distributorships of your members and not toward the improvement of a line of business or industry. You further the business interest of your member-distributors. You attract [REDACTED] distributors as members because your activities are centered around motivating distributors to increase their sales. The information you disseminate pertains to the marketing and sale of products manufactured by [REDACTED].

You have cited several revenue rulings to support your claim of exemption under section 501(c)(6) of the Code. The Revenue Rulings you have cited do not support your claim to exemption.

Revenue Ruling 67-252 1967-2 C.B. 195 describes a nonprofit organization whose members consisted of processors, packers and distributors of agricultural products. It was determined that the organization was exempt under section 501(c)(6) rather than 501(c)(5). The organization was formed to promote the sale and use of agricultural processed products. The organization conducts research in processing and marketing and conducts advertising campaigns to encourage consumers to buy and consume the products. The purpose of the organization is to improve the business conditions of a line of business. You are not similar to this organization because your membership is composed only of distributors and your activities do not promote the development and sale of the agricultural products. The product which your members distribute is a patented product. Your activities serve to promote the private interests of your members. The magazine and the meetings keep members abreast of the sale achievements of [REDACTED] distributors.

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Revenue Ruling 69-632 1969-2 C.B. 120 describes an organization which is composed of members of a particular industry to develop new and improved uses for existing products of the industry. The organization does not conduct scientific research but it does contract with various research organizations for specific research projects. The results of the project are published and made available to the general public. Since the organization's activities are directed towards improving the business conditions of the industry, it qualifies for exemption. Your organization does not engage in the development or improvement of existing products of the industry. Your activities are centered around improving the skills of the [REDACTED] distributors to market the products.

Revenue Ruling 74-147, 1974-1 C.B. 136 describes a nonprofit organization which qualified for exemption under section 501(c)(6) of the Code. The organization's membership consists of members who represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers. The organization's primary objective is to provide a forum for the exchange of information that will lead to more efficient utilization of computers by its members and other interested users and thus, improve the overall efficiency of the business operations of each.

You are not like this organization because your application indicates that your organization consists of persons who are in the business of selling and distributing [REDACTED]. Your membership does not represent diversified vacuum cleaner distributors. Your activities serve to motivate and inform distributors of new sales techniques for marketing the [REDACTED] products, sales achievements of fellow [REDACTED] distributors, marketing and recruiting techniques. These activities are for the enhancement of the members' individual distributorships and not to enhance a particular line of business or industry.

Revenue Ruling 75-287, 1975-2 C.B. 211 describes a nonprofit organization whose members are involved in the commercial fishing industry. The revenue ruling goes on to explain why the organization is described in section 501(c)(6) rather than section 501(c)(5) of the Code. The organization's activities consist of publishing and disseminating a newspaper that contains news of events of interest to fishermen and new techniques and advances in the commercial fishing industry. The technical information provided is of interest to all sectors of the commercial fishing industry. Because its activities were directed toward the betterment of the conditions of those engaged in commercial fishing it qualifies for exemption under section 501(c)(6) of the Code. Its activities promote a common business interest in the commercial fishing industry. You are not similar to this organization because your members do not share a common business interest in a particular industry. Your members share the interest of wanting to be top distributors of [REDACTED] products.

[REDACTED]

Based on the available information, it is our opinion that you do not qualify for exemption from Federal income tax under the provisions of section 501(c)(6) of the Code because your members do not share a common business interest within the meaning of section 501(c)(6) of the Code. Your activities are not directed toward the improvement of business conditions of one or more lines of business. In addition, you are not of the same general class as a chamber of commerce or board of trade which are the types of organizations which are entitled to exemption from federal income tax under section 501(c)(6) of the Code.